

APPENDIX C – NO PEER REVIEW JUSTIFICATION

Background:

The Central Valley Water Board will consider the proposed Basin Plan Amendment to the Water Quality Control Plan for the Sacramento and San Joaquin River Basins to remove the municipal and domestic supply (MUN) beneficial use in twelve constructed or modified surface water bodies receiving treated municipal effluent from the cities of Biggs, Colusa, Live Oak and/or Willows. Currently all twelve water bodies are designated with the MUN beneficial use via the Sources of Drinking Water Policy (Resolution 88-63). These water bodies are agricultural drains which flow to either the Sutter Bypass or the Colusa Basin Drain, and neither is designated with the MUN beneficial use. During Water Board hearings to consider adopting National Pollutant Discharge Elimination System (NPDES) permits for the publicly owned treatment works (POTWs) for these four cities, there have been challenges to protecting the MUN beneficial use designation in agricultural drains due to the stated Exception 2b in Resolution 88-63 regarding water bodies constructed or modified for the primary purpose of conveying or holding agricultural drainage. The recommended alternative for this project is to de-designate the MUN beneficial use in the twelve water bodies utilizing this exception. The proposed Basin Plan Amendment will include a Monitoring and Surveillance element that supports compliance.

Legal Basis for Peer Review according to the Health and Safety Code, section 57004(d):

“No board, department, or office within the agency shall take any action to adopt the final version of a rule unless [the Board] submits the scientific portions of the proposed rule, along with a statement of the scientific findings, conclusions, and assumptions on which the scientific portions of the proposed rule are based and the supporting scientific data, studies, and other appropriate materials, to the external scientific peer review entity for its evaluation.”

The State Water Board Administrative Procedures Manual (APM) Section 8, III.D clarifies that

“Peer review is not needed for source documents that have been previously peer reviewed by a recognized expert or body of experts.”

Evaluation of Need for Peer Review:

Staff believes that this proposed Basin Plan Amendment does not need external technical peer review for the following reasons:

- **The proposed Basin Plan Amendment (i.e. the proposed rule) is to remove the municipal and domestic water supply beneficial use (MUN) from twelve water bodies based on Exception 2b in the Sources of Drinking Water Policy. Water body characterizations for the twelve water bodies are based on reports that are a compilation of existing information that demonstrate that the water bodies have been constructed or modified to convey or store agricultural drainage and do not make scientific findings.**

The Basin Plan Amendment staff report references four reports that were developed to better understand the characteristics (e.g. seasonal flow patterns, inflows and outflows, and construction information) in each of the twelve water bodies. Water body characterization assertions were made by compiling information from the four Sacramento POTW cities, interviews with local landowners and water managers, water district records, Central Valley Water Board site surveys and historic documentation like those developed as part of the Inland Surface Water Plan in 1992. Compilation of this existing information does not have a scientific basis to peer review.

- **Monitoring and surveillance to support the Basin Plan Amendment will utilize existing programs**

Exception 2b in Resolution 88-63 requires monitoring of discharge to assure compliance with all relevant water quality objectives as required by the Regional Board. The recommended monitoring and surveillance option to fulfill this requirement in the proposed Basin Plan Amendment is to continue existing monitoring programs such as those implemented through ILRP, SWAMP, and NPDES. Any changes to the monitoring conducted by these programs to ensure that discharges from water bodies utilizing Exception 2b in Resolution 88-63 are in compliance with all relevant water quality objectives as required by the Central Valley Water Board will be implemented through these programs.

Conclusion:

Based on the interpretation of Health and Safety Code, section 57004 and APM Section 8, III. D., staff has determined that the proposed Basin Plan Amendment does not contain new science that would require peer review. The proposed Basin Plan Amendment relies upon existing information, plans and policies. Therefore, the proposed Basin Plan Amendment has already satisfied the peer review requirement of Health and Safety Code, section 57004 and, therefore, does not require additional peer review.

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